Habitat and Access Management near Flat Lake Park

Complaint Investigation 020365

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FPB/IRC/79

September 2002

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The Investigation

The Complaint

Boar Lake is an isolated lake with high fishing values, approximately 30 kilometres southwest of 100 Mile House. In the summer of 2001, a cabin owner on Boar Lake (the complainant) learned that Weldwood of Canada (the licensee) planned to harvest several cutblocks near the lake. He was concerned that planned upgrades of the road into the area would increase fishing pressure and that the cutblocks would reduce wildlife habitat in the area. He discussed his concerns with the licensee and government agencies. He was not satisfied with attempts to address his concerns and filed a complaint with the Forest Practices Board in January 2002.

Background

The *Cariboo Chilcotin Land Use Plan* (CCLUP) outlines government's intent for managing the forest resources of the entire Cariboo Forest Region. It establishes protected areas and it zones areas for various levels of resource use. Government declared parts of the CCLUP as a higher level plan under the *Forest Practices Code of British Columbia Act* (the Act). The Act and related regulations together are referred to as the Code. Under the Code, operational forest management plans must be consistent with higher level plans.

Numerous wetlands and small lakes surround Boar Lake. A regional lake classification program identified it as a quality fishing lake. Access to Boar Lake is along the Whale Lake road. This road originates from 1000 Road, a main haul road. The Whale Lake road is difficult for most larger recreational vehicles to navigate.

Boar Lake is within the Gustafson enhanced resource development zone (ERDZ) of the CCLUP. Such a zone is high-intensity land and the focus is on enhancing the productive capability of natural resources. Nearby to the east is Flat Lake Park and to the south is the Flat Lake special resource development zone (SRDZ). SRDZs are areas that are relatively undeveloped and contribute to a range of resource values. Low-intensity development can be carried out in a manner sensitive to non-timber forest resources.

Weldwood proposed several cutblocks near Boar Lake in its 1998-2003 forest development plan (FDP). Several FDP amendments up to the fall of 2001 resulted in changes to the proposed cutblocks and access. In November 2001, the licensee submitted its 2002-2006 FDP for approval.

The complainant learned of the proposed harvesting plans during the review and comment period for one FDP amendment in the summer of 2001. He was concerned about six of the cutblocks and the required access proposed in the area. Four of the cutblocks are in the ERDZ. One cutblock is mainly in the ERDZ but access is through the SRDZ. The last

cutblock is within the SRDZ. The complainant expressed concerns to the licensee that the cutblocks would affect wildlife and that the proposed access would increase the number of recreational vehicles, allow larger recreational vehicles to come in, and diminish the fishing experience in the area. Although the licensee did not propose to improve a rough road into Boar Lake from the Whale Lake road, it is short enough that the complainant believes larger recreational vehicles could travel it. The complainant believes the licensee's proposal was not consistent with the CCLUP direction regarding management of wildlife habitat around small lakes and wetlands. The Ministry of Water, Land and Air Protection (MWLAP) shared the complainant's concerns that the proposal to upgrade the Whale Lake road would increase traffic to the area and impact the fishery.

The complainant asked the licensee to consider accessing the new cutblocks from existing cutblocks either east or south of Flat Lake Park. He felt this would require less road construction and would not bring as much traffic into the area. These routes were considered and rejected by the licensee, Ministry of Forests (MOF) and MWLAP, mainly because loop roads would be created. Loop roads can increase traffic and hunting pressure in an area because the ability to drive through makes the road more attractive to users. The licensee agreed to bypass the first part of the Whale Lake road and access it further south by building a short temporary spur road from 1000 Road. That addressed some of the access concerns. However, the complainant remained unsatisfied with the proposed access, the timing for spur road deactivation, and the cutblocks.

Issues

The investigation looked at the following issues:

1. Are the cutblocks consistent with the Code and higher level plan objectives for wildlife habitat management?

2. Is the access consistent with the Code and higher level plan objectives?

3. Was it reasonable for the district manager and designated environment official to approve the access?

Discussion

Are the cutblocks consistent with the Code and higher level plan objectives for wildlife habitat management?

The complainant believed that the CCLUP identified the habitat between small lakes and wetlands as valuable for wildlife, and required more restrictive practices there than on the general landscape. The establishment of the Flat Lake SRDZ and the proposal of numerous old-growth management areas (OGMAs) appear to confirm the habitat values in the area.

The Code provides a number of provisions for managing wildlife habitat, in addition to the general requirement for a decision-maker to be satisfied that a plan will adequately manage and conserve forest resources [section 41(1)(b) of the Act] before the plan is approved. Additional provisions can be made through a higher level plan. Section 10 of the Act requires FDPs to be consistent with any higher level plan. In 1996, the resource targets of the CCLUP were established as a higher level plan. The Board considered whether the FDP met the Code and was consistent with higher level plan provisions.

The provisions for wildlife habitat in the Code include: maintaining retention along riparian areas including streams, wetlands and lakes; maintaining a specified range of old, mature and young forest (seral targets); maintaining a range of habitat patch sizes on the landscape; establishing OGMAs; and retaining pockets of timber within a cutblock as wildlife tree patches. Individual species are to be managed through the establishment of ungulate winter ranges and through the establishment of wildlife habitat areas for those species listed as identified wildlife under the Act.

Objectives for the ERDZ and the SRDZ are identified in the 1995 CCLUP implementation report. The report states that riparian habitat will be managed by applying the riparian management areas required by the Code. The CCLUP does not add to the basic Code requirements. The implementation report also states that wildlife in the SRDZ should be addressed through meeting seral targets; maintaining riparian areas; managing for species at risk, furbearers, moose and grizzly bears in riparian areas, recreational areas and lakeshore management zones; and through a biodiversity conservation strategy. Development of a biodiversity conservation strategy was a key requirement in the implementation report for managing wildlife. That strategy was developed in 1996; however, it did not identify any specific requirements for the area of this investigation.

The riparian features within the six cutblocks lie along lakes, wetlands and streams. At the point in the process when the FDP was approved, section 20 of the *Operational Planning Regulation* (OPR) required that lakes, wetlands and streams be classified only if they were within an area requiring approval of more than one ministry (joint approval). Classifying riparian features in areas not requiring joint approval was not required until the silviculture prescription stage. One cutblock considered in the investigation was within a joint approval area. The FDP identified the classification of a wetland and a lake adjacent to that cutblock, as well as numerous lakes and wetlands associated with the other cutblocks.

The licensee proposed wildlife tree patches over the riparian reserve zones, which are reserved from harvest, and portions of the riparian management zones. The purpose of a management zone is to maintain the integrity of the reserve zone. The *Riparian Management Area Guidebook* recommends that retention levels in the management zones for lakes and wetlands average 25 percent. A February 8, 2002, addendum to the final FDP committed to retain 40 percent of the trees in riparian management zones for the wetlands and lakes. Beyond the riparian management zone, the silviculture prescriptions identify that deciduous trees and certain diameter classes of fir will be retained in all the cutblocks.

The 1995 implementation report also provided seral targets for the ERDZ and SRDZ. In both zones, the targets were to have 7 to 19 percent of the zone in an old-forest condition and 17 to 36 percent of the zone in either a mature or old-forest condition. There were no targets for young forest. The licensee analysed the existing seral conditions in the zones and determined that the cutblocks were consistent with the targets. Planning under the CCLUP includes managing for fir and pine groups. The fir group is defined as stands where Douglas fir makes up at least 16 percent of the stand. The licensee's analysis found that these fir types were scarce, so no forest practices were proposed for fir groups in the final plan.

The licensee and MWLAP completed a patch size analysis for the area, which was largely a quantitative assessment of patches on the forest cover map. The analysis found that the proposed cutblocks were within recommended ranges of patch sizes.

A significant amount of area near Boar Lake is proposed for OGMAs. One proposed OGMA surrounds Boar Lake and others are close to the other proposed cutblocks. There are no designated wildlife habitat areas or ungulate winter ranges in the immediate area of the complaint.

MWLAP staff were mainly concerned about moose habitat in the area. However, they believed that the proposed cutblocks were consistent with the CCLUP and that the levels of retention proposed in the final plan would adequately provide for wildlife, including moose.

The Board concludes that the cutblocks are consistent with the Code and higher level plan requirements for managing wildlife habitat. The licensee proposed adequate levels of retention in the riparian areas. Also, the combination of Flat Lake Park, the SRDZ and proposed OGMAs provides a higher level of habitat protection and connectivity within the area of this complaint than is typical of the managed forest landscape.

Is the access consistent with the Code and higher level plan objectives for the area?

The complainant was concerned with the location of proposed access and the timing of road deactivation. He said Boar Lake is intended to provide a quality fishing experience. MWLAP staff confirmed this. It was proposed as a quality lake under the Code's lake-classification process. The complainant also believed that the proposed access was inconsistent with the CCLUP for the SRDZ.

The CCLUP sets access objectives for the Gustafson ERDZ and for the Flat Lake SRDZ.

The ERDZ objective is to maintain roaded access to 90 percent of the zone and maintain 2 percent in backcountry condition. The SRDZ objective is to restrict the development of permanent road access to 80 percent of the zone and maintain the remaining 20 percent of the zone in a backcountry condition.

The proposed access is through the ERDZ. However, this potentially increases access to the adjacent SRDZ. The licensee originally planned to access the area by upgrading the Whale Lake road. Concerns raised by the complainant and MWLAP prompted the licensee to propose a short connecting spur from 1000 Road, an existing main haul road. This would allow access further down the Whale Lake road without having to upgrade the upper portion of the road.

The new spur was proposed as a temporary road that would be permanently deactivated within five years. Prior to permanent deactivation, it would be deactivated on a seasonal basis when the licensee was not operating there. A second temporary road was also proposed through the SRDZ to access one cutblock.

One issue that arose in the investigation was the meaning of "permanent" in the CCLUP. There is no definition in the plan. The OPR defines a road as a "permanent access structure" if it will be in place long enough to prevent trees from growing on that road that could be harvested concurrently with the adjacent crops.

Clearly, the intent of the CCLUP is to limit impact on the SRDZ. The extent of that limitation may need clarification. However, because the new roads were proposed as temporary, and because the licensee would deactivate the spur road seasonally, there is no new permanent access created in the SRDZ. The Board concludes that the proposal is consistent with the Code and higher level plan access objectives.

Was it reasonable for the district manager and designated environment offical to approve the access?

Before an operational plan is approved, the MOF district manager, and the MWLAP designated environment official–in areas requiring joint approval–must be satisfied that the plan and the proposed access adequately manages and conserves forest resources. That determination is discretionary. The standard the Board uses in evaluating discretionary decisions is not whether, in the Board's opinion, the decision was the best decision. Rather, the Board considers whether the decision is consistent with sound forest practices, if it achieves the intent of the Code, and if it was based on an adequate assessment of available information.

The complainant identified alternatives to upgrading the Whale Lake road in a June 2001 letter to MOF. These options combined connecting old roads from existing cutblocks and dropping some proposed cutblocks. MWLAP, MOF and the licensee met with the complainant and considered those options. All were ruled out, mainly because they created loop roads (though the complainant had suggested permanent closures to avoid that). MWLAP was concerned that these routes, more than the licensee's proposal, could potentially increase the hunting pressure in the area. MOF informed the complainant in a June 28, 2001, letter of a new proposal for a temporary spur road off of 1000 Road that would not require upgrading the Whale Lake road.

The complainant later wrote to MOF that the spur road option was not optimal for his concerns. However, he felt he could accept it if several conditions were met. These conditions included closing roads during the hunting season, seasonal closure of the spur road, and permanent closure of the spur road after all activities were completed. The licensee did not agree to hunting season closures and the district manager informed the complainant that this was not within MOF responsibility. The seasonal and permanent closures were accepted and included in the plan.

The final proposal addressed some of the complainant's concern about access location. However, both the complainant and MWLAP remained concerned about the timing of the seasonal road deactivation. This was originally proposed to occur within 60 days of the end of activity each season. MWLAP requested deactivation within 14 days. The licensee did not want to commit to such a short timeframe. It felt there was too great a risk of not meeting the deadline for logistic reasons, and being in non-compliance with the FDP.

The district manager was satisfied that the proposed spur road did not create new permanent access to the area. He considered the guidance in the CCLUP regarding access targets, and the fact that there was no new long-term access created. Regarding the deactivation issue, the district manager said that, despite the 60-day deactivation commitment, the licensee would try to deactivate within 14 days. The district manager accepted this intent and said that any longer period would require strong justification by the licensee. The ERDZ and SRDZ portions of the 2002-2006 FDP were approved by MOF, with the 60-day commitment, on January 14, 2002.

The SRDZ portion also required approval from MWLAP's designated environment official. MWLAP staff were concerned with the timing of deactivation of any road that accessed the SRDZ. They were also concerned with the impact of increased public use on the quality of the fishery at Boar Lake. The designated environment official was ultimately satisfied with concessions that the licensee made, after the district manager's approval, to commit to deactivate the spur road within 30 days but to try to do it within 14 days. He approved the portion of the FDP within the SRDZ on February 11, 2002.

The designated environment official continued to be concerned about the actual location of the deactivation. He wanted assurance that the deactivation would occur on the spur road and not further down the road past the Boar Lake turnoff. The FPD map shows that deactivation structures will be placed at either end of the spur road. That information on the FDP map became a legal obligation with the approval of the plan.

The designated environment official, in his rationale, also identified a larger concern regarding how the existing access had developed in the area. He identified the need for better planning around road deactivation to adequately manage the resources to meet backcountry and tourism objectives. This concern relates to existing and future levels of access and not specifically to access created by the spur road. For the existing access situation, the designated environment official was satisfied with the spur road proposal.

The Board notes that all parties in this complaint want to avoid improving access to the area unnecessarily. Both the district manager and the designated environment official identified the need for better access planning in their rationales.

The Board concludes that it was reasonable for the district manager and the designated environment official to approve the access in the 2002-2006 FDP. They considered the relevant access issues. There were alternative routes, but the agencies had logical reasons for not favouring them. The approved access with the proposed deactivation does not require a significant amount of new road. Alternative routes would also require permanent deactivation and, if people could get around the deactivation point, create an undesirable loop road. That same risk does not exist with the spur road.

Conclusions

1. The cutblocks are consistent with the Code and higher level plan requirements for managing wildlife habitat.

2. The proposal is consistent with the Code and higher level plan access objectives.

3. It was reasonable for the district manager and the designated environment official to approve the access in the 2002-2006 FDP.